

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JONATHAN D. SMITH-EL,)
Petitioner,)
v.) No. 4:17CV778 HEA
STATE OF MISSOURI,)
Respondent.)

OPINION, MEMORANDUM AND ORDER

Petitioner seeks leave to proceed in forma pauperis in this action to expunge his criminal record. The motion is granted. Additionally, petitioner must show cause why this action should not be dismissed for lack of jurisdiction.

Standard of Review

Pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure, courts are required to review cases to determine whether subject matter jurisdiction exists and to dismiss cases in which it is lacking. “The requirement that jurisdiction be established as a threshold matter springs from the nature and limits of the judicial power of the United States and is inflexible and without exception.” *Kessler v. Nat'l Enterprises, Inc.*, 347 F.3d 1076, 1081 (8th Cir. 2003) (quotation marks omitted); see *Kuhl v. Hampton*, 451 F.2d 340, 342 (8th Cir. 1971) (federal courts “were not established to mediate any and all types of complaints and alleged wrongs.”).

The Complaint

Petitioner seeks expunction of his conviction in *Missouri v. Smith*, No. 1222-CR00955-01 (City of St. Louis). On November 20, 2012, petitioner pled guilty to unlawful possession of a

firearm, unlawful use of drug paraphernalia, and possession of heroin. *Id.* The court sentenced him to five years' imprisonment. *Id.* He did not appeal.

Petitioner subsequently sought habeas relief in this Court. *Smith v. Minor*, No. 4:13-CV-1987 DDN. The Court summarily denied the petition because the grounds for relief were frivolous. *Id.*

Discussion

The federal courts have limited jurisdiction to expunge criminal records. *See United States v. Meyer*, 439 F.3d 855, 859 (8th Cir. 2006). In order for jurisdiction to exist in an expungement case, there must be express statutory authority from Congress. *Id.* In this case, petitioner has not cited any statutory authority for the relief he seeks. As a result, he must promptly show cause why this action should not be dismissed.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that petitioner must show cause, within fourteen (14) days from the date of this Order, why this action should not be dismissed for lack of jurisdiction.

Dated this 24th day of February, 2017



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE